

How do I Bring My Foreign Citizen Spouse to the US (US Citizen)?

In order for a United States Citizen (USC) to bring his/her foreign-born spouse to the United States, the citizen must petition the Department of Homeland Security, U.S. Citizenship and Immigrations Services for permission to do so. A Lawful Permanent Resident (LPR) ("green card" resident) of the United States may also petition for his foreign-born spouse to enter the United States, but the procedure and waiting time are longer in that instance. (If you are a lawful permanent resident, see the SJA Information Paper "How Do I Bring my Foreign-Citizen Spouse to the U.S.—I am a Lawful Permanent Resident.")

Useful Websites

- U.S. Citizenship and Immigration Services: <http://uscis.gov>
- United States Department of State: <http://travel.state.gov>
- United States Embassy, Seoul Korea: <http://seoul.usembassy.gov/>

Steps:

Step 1: Petition for Alien Relative, I-130

1. The U.S. Citizen will be the sponsor for his/her foreign-born spouse, and files the petition.
2. The initial visa petition is filed with the USCIS office in the states or the embassy in the Country where the U.S. Citizen and spouse live together. You will file a Form I-130; the fee is \$185 (current as of April 2003).
Included with the I-130 are the following:
 - a. Your Marriage certificate;
 - b. Proof of the U.S. Citizen status of your petitioning spouse;
 - c. Proof of termination of all previous marriages, such as a copy of a death, divorce, or annulment;
 - d. One color photo of you;
 - e. One color photo of your spouse;
 - f. Form G-325A, Biographic information, filled out by you; and
 - g. Form G-325A, Biographic information, filled out by your spouse.
3. The sponsor must show that he/she can financially support the spouse at 125% of the federal poverty line. (For military member sponsors, they must show only 100%.) Form I-864, Affidavit of Support, is used.
4. The sponsor must provide proof of his/her relationship with the alien spouse.

Step 2: Obtain Immigrant Visa from U.S. State Department

1. The U.S. State Department—and not the USCIS—controls the issuance of Visas.
2. Spouses of U.S. Citizens are considered "immediate relatives" for visa purposes. This means that, once the I-130 petition is approved, the spouse's visa will be issued without a significant wait.
3. The fee for the immigrant visa itself is \$335 from the State Department.
4. The Visa is issued at an American Embassy or Consulate abroad.
5. The Visa process will require an immigrant visa interview.

The "K" Visa—an alternative to Visa Processing Abroad

1. A nonimmigrant visa, the "K" visa, is available for the spouses of United States citizens. A nonimmigrant is a foreign national seeking to temporarily enter the United States. The "K" visa was created by the LIFE Act, which was enacted on December 21, 2000.
2. Once the U.S. Citizen has filed the I-130 Petition for his/her foreign-citizen spouse, the foreign-citizen spouse may then apply for the "K" nonimmigrant visa. This allows the foreign-citizen spouse to travel to the U.S., and to avoid immigrant visa processing abroad.

3. The documents required for "K" visa are:
 - a. Form I-130 filed in the US by the petitioning U.S. Citizen for the spouse;
 - b. Form I-129F;
 - c. Form G-325A (one filled out by you and one by your spouse, identical to the G-325As you already filled out to accompany the Form I-130 visa petition);
 - d. Proof the U.S. citizen already filed Form I-130 Visa Petition with USCIS Service Center (preferably, a copy of I-797 receipt notice);
 - e. A color photo of you;
 - f. A color photo of your U.S. citizen spouse;
 - g. Fee (currently \$165, double check at www.uscis.gov);
 - h. Proof of U.S. citizenship of U.S. citizen spouse.
4. Once the foreign-citizen spouse enters the U.S. on the "K" visa, (s)he will continue the processing for the lawful permanent resident status, with the USCIS, from within the U.S. must petition for the non-LPR spouse, using form I-130 (see paragraph b above).

Step 3: Conditional Permanent Resident status based on Marriage to a U.S. Citizen

1. The spouse of a U.S. Citizen is granted conditional permanent residency if, at the time of her/his admission into the US, the marriage to the citizen is less than 2 years old. (If the marriage has passed its 2nd anniversary, the spouse enters the US as a Lawful Permanent Resident, without condition.) The "conditional" status lasts for 2 years. Conditional permanent residency is done to prevent marriage fraud.
2. During the conditional period, USCIS can terminate your foreign-citizen spouse's residency if BCIS determines that the marriage is fraudulent, was entered into for pay, or was ended by annulment or divorce.
3. Ninety (90) days before the 2nd anniversary of your spouse's admission into United States, you (the U.S. citizen) must file a joint petition—Form I-751—with your spouse to remove the condition so that your spouse can become a Legal Permanent Resident (LPR). The fee for the I-751 is \$200 (current as of Oct 2005). Important Note: USCIS is very strict about the timeliness of this joint petition. Your spouse's legal status terminates at the two-year anniversary of her/his admission into the U.S. He/she may be placed into removal (deportation) proceedings if the joint petition is not filed at the proper time.
4. Even if the marriage is strained and "without hope of revival", the joint petition can be approved if the USCIS is convinced that the marriage was entered into in good faith.
5. There are certain circumstances in which an alien spouse may self-petition—that is, where (s)he does not need to file the I-751 petition jointly with her/his spouse.
6. USCIS will interview both you (the U.S. citizen) and your spouse separately to verify that marriage is bona fide. Expect that some of these questions may be personal.

Step 4: How Can Your Non-Citizen Spouse Become a United States Citizen?

1. Your foreign-citizen spouse can apply to become a U.S. citizen (a process called naturalization) once (s)he has been an LPR for 3 years and has been married to you (the U.S. citizen) for 3 years. Your spouse's time as a conditional LPR counts towards the 3 years.
2. There is also a special provision for expedited naturalization for the foreign-citizen spouse of a U.S. citizen soldier who will be stationed (PCS) abroad, when the spouse intends to accompany the soldier overseas. See Immigration and Nationality Act section 319(b) and 8 CFR section 319.2.